MR. M. N. NAIR (*Kottayam I*) : When a permanent man was promoted I suspected that the vacancy was created to give an appointment to a particular man whom the Director had in view.

PRESIDENT : You may keep the suspicion to yourself. Keep yourself to one particular appointment and do not wander into the whole field of appointments talking about auxilliary appointments.

MR. M. N. NAIR (*Kottayam I*) : Which is the better qualification, Account Test or L. T.?

MR. R. M. STATHAM (*Director of Public Instruction*) : For the Librarian's post in the Training College we want an experienced clerk.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*) : Who was the appointing officer in this case?

MR. R. M. STATHAM (*Director of Public Instruction*) : The Principal of the Training College.

MR. S. J. NAIR (*Nedumangad*) : May I know whether there was a convert Christian belonging to the Depressed Classes community who has had some experience in the Madras University Library as an applicant?

MR. R. M. STATHAM (*Director of Public Instruction*) : There was such an applicant but his application was received later. But the Principal gave him an interview and promised him another job but he was not willing to accept that. Evidently, he had been seeking for some bigger job elsewhere. But he also brought forward certain conditions if he was to accept the appointment.

MR. S. J. NAIR (*Nedumangad*) : May I know whether those conditions stated by the applicant are on record?

MR. R. M. STATHAM (*Director of Public Instruction*) : Yes, they are on record.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*) : May I know whether the Principal of the Training College informed the other applicants that their applications were rejected because the appointment was to be given to a permanent man?

MR. R. M. STATHAM (*Director of Public Instruction*) : Not to all. Only to those persons who went and saw the Principal and the Director of Public Instruction.

PRESIDENT : Have you to tell every candidate what you are going to do?

MR. R. M. STATHAM (*Director of Public Instruction*) : No, Sir.

LEGISLATIVE BUSINESS.

THE TRAVANCORE LUNACY BILL.—(*contd.*)

PRESIDENT : The House will now resume discussion on the Travancore Lunacy Bill. Well, last evening we adjourned while we were discussing amendments to item No. (9), clause 42,

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MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Sir, I oppose this amendment. The scheme of the provision is this: If a person is found to be a lunatic, the District Court may direct the Division Peishkar of the place to take charge of the person and estate of the lunatic. Thus he is given authority to take charge of the person as well as the property of the lunatic. The Division Peishkar has there-upon to appoint a manager of the estate and he may also appoint a guardian of the person of the lunatic. The Division Peishkar has to take charge of the estate. In case of the person, if he considers it necessary, he may appoint a guardian of the person, or leave the person, as it is, to look after himself. Very often a person may not be able to manage his own affairs but at the same time he may be quite able to look after himself. That contingency is contemplated in the previous clause, clause 41 sub clause (2), too. Even if this amendment is accepted the result will be the same as the existing clause. If the expression 'may' in the next clause is also amended, then there may be something different in substance and if that amendment is not made, there will be nothing gained in substance by accepting the present amendment. As such I think it is better to follow the wording of the Bill, as it stands, and it has the unanimous approbation of the members of the Select Committee; and whenever we can follow the corresponding Act in British India, it is better to do so. In other words, my contention is that it is better to follow the language of the Indian Act as well as the language accepted by the Select Committee.

MR. A. S. DAMODARAN ASAN (*Mavelikara*) : Does the Law Member think that it is better to omit the clause?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : No.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*) : A word of personal explanation is necessary. Amendment No. 11 on the printed list of amendments, printed as an amendment to clause 47 should really come as amendment No. 10 under clause 42. That will be moved by me as No. 10 after we have done with the one we are discussing.

PRESIDENT : The mistake has already been brought to my notice. We may discuss this on the understanding that the other will come up in its right place and time.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : If that amendment is accepted there is a change in substance. But, I oppose both.

MR. T. K. VELU PILLAI (*Trivandrum-Urban*) : The Law Member said that the present clause is supported by a large number of members of this House. There are in the world some people who want to get other people's property and when a lunatic happens to be the owner, his life may be in danger. The lunatic cannot be expected to seek remedial measures before a competent officer. If therefore the lunatic is in possession of movable property, the people or even his relations, will cause him injury; perhaps even death may be inflicted upon the

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poor unfortunate lunatic. On the otherhand, apart from property, there is some little good feeling towards a lunatic on the part of his relations. He won't be allowed generally to kill himself or to jump into a well or throw himself into the fire. In case there is a close relation such as a father, brother or sister, it may be even better. So this clause gives a double protection. So I hope Mr. Krishna Pillai will consider this aspect of the question also.

MR. PUTUPALLI S. KRISHNA PILLAI (*Quilon II*): I am afraid I am not correctly understood. There are three sections, sections 41, 42 and 43 dealing with this particular matter, that is, conferring jurisdiction upon the District Court to pass appropriate orders for taking into charge the property and person of a lunatic. In the first section, as I have already pointed out, if the lunatic is unable to take care of his property but is able to take care of himself, the court need not appoint a guardian of the person of the lunatic. The other two are the sections which deal with cases contemplated by section 41. If he is a person who owns immovable property the court shall direct the Division Peishkar to take charge of the property and the person of the lunatic. The court is bound, in such a case, to deliver both the person and property to the Division Peishkar even in cases arising under section 41. Section 41 further gives a discretion to the Division Peishkar to appoint or not to appoint a guardian for the person of the lunatic even when the lunatic is handed over to him.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I think that Mr. Krishna Pillai has not understood the point that I was trying to impress. The section does *not* provide that the courts shall *deliver* the custody of the person and property. What it says is that the courts may pass an order affecting custody also of the lunatic. Such order merely confers an authority on the Division Peishkar to act. How he should act is mentioned in sub-clause (2). It says that the Division Peishkar may appoint a guardian, if he so desires, to a lunatic's person. He can exercise that authority if he desires to do so. He may do it either immediately or some time hence.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Then what is the Division Peishkar to do with the lunatic when he takes charge of him ?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): He may apppoint a guardian for the person.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): If he does not, in whose custody will he be ?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): He will be as before. He will not be in the Peishkar's custody at all.

PRESIDENT: The consideration of the question of custody will arise according to the degree of lunacy.

MR. A. THANU PILLAI (*Trivandrum-Rural*): According to the section, is not the Division Peishkar bound to appoint a manager as soon as he takes charge of the person of the lunatic ?

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MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Only if he thinks it necessary will be appoint a guardian of the person.

MR. A. THANU PILLAI (*Trivandrum-Rural*) : Is it not obligatory that a manager should be appointed whenever the Division Peishkar takes charge of the lunatic?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : We are dealing with section 41. It says that the court *may* pass orders.....and the Division Peishkar *may* appoint a guardian. The section says only that.

MR. A. THANU PILLAI (*Trivandrum-Rural*) : The court may direct the Division Peishkar to take charge of the lunatic. So, is not the Division Peishkar bound to take charge of the person of the lunatic?

PRESIDENT : It is not obligatory. The section confers an authority on the Peishkar to appoint a manager for the estate and appoint a guardian of the person. The first condition is obligatory on him and the latter is giving him a discretion. Whenever there is a necessity he will appoint a person.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*) : The first section requires that inevery case in which the Division Peishkar takes charge of the lunatic, he should appoint a guardian for him. Am I right?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : If he thinks necessary he can appoint a guardian.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*) : If he does not think it necessary; does it mean that he can keep a lunatic in his custody?

PRESIDENT : I do not think he will take that risk.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*) : In every case in which the Division Peishkar takes custody of the lunatic, does the section say that he can avoid appointing a guardian?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : The Division Peishkar may naturally appoint somebody to take charge of the lunatic, if it is a case that requires it.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*) : If the Division Peishkar refuses to take charge of the lunatic, can the District Judge order him to do so?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : What the section says is that he *shall* take charge of the estate and *may* appoint a guardian of the person.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*) : In case he does not appoint a guardian, what is to be done?

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MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*: Sub-section (2) says that.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Will not a relative of the lunatic be anxious as to what will be done with him ?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): He will not be in the hands of the Division Peishkar.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*) According to the definition of the lunatic, an idiot can be considered to be one such. He may be an innocuous person. Suppose the Division Peishkar keeps him in his house as a plaything.

PRESIDENT: That is a risky experiment. (*Laughter.*)

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): As understood in the popular sense, should not the law compel the Division Peishkar to appoint somebody as the guardian of the person ?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): If Mr. Krishna Pillai thinks that the Division Peishkar will use the lunatic as his slave, let Mr. Krishna Pillai himself table an amendment as to what should be done with a lunatic. I am prepared to consider that.

PRESIDENT: Although I cannot apply any legal mind to any problem which is being discussed so hotly between well-known lawyers, to my plain thinking, the only conclusion that is possible by a reading of the section, appears to be, that the District Court has been given certain powers, That power being to authorise the Division Peishkar to take charge of the person and the estate of the lunatic. When the first order is made by the District Court, it does not issue in the shape of a peremptory injunction that a Division Peishkar *shall* take charge both the person and property. It, in the first instance, gives a discretion to the Divlsion Peishkar. Thus whenever an order has been passed by the District Court there arises an obligation on the part of the Division Peishkar. The first obligation that arises is that the Division Peishkar shall thereupon appoint a manager to the estate. He cannot get out of that. But in regard to the appointment of a guardian of the person, the matter is still left to the discretion of the Division Peishkar. If in the light of the facts of the case the Division Peishkar thinks that the guardian of the person should also be appointed, he does so in exercise of the power that is given to him by the District Court. But if he thinks that the facts of the case do not justify the appointment of a guardian to the person, he leaves the matter in *status quo*, perhaps watching in the meantime whether the exercise of that power would become necessary at any stage at all and if the exercise of that power does arise, he has got the permission of the District Court already and he exercises it at once when that contingency arises. But in regard to the property, it is an obligatory duty on him to appoint a manager. That I understand is the distinction that is sought to be obtained by clause 42.

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The question is, in sub-clause (1), line 3, for the words 'person and estate of the lunatic' substitute the words 'estate of the lunatic and if necessary his person.'

The amendment was put to vote and lost.

PRESIDENT: There is, as I see, a printers' devil in the amendment sheet. Honourable members will notice that under clause 47, two amendments have been entered as 10 and 11. On an examination it is found, that No. 11 ought properly to go along with clause 42 and that No. 10 alone belongs to clause 47. So, No. 11 should be moved as No. 10.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): In view of the decision of the House on amendment No. 9, I do not propose to move that.

PRESIDENT: The question is whether clause 42 do form part of the Bill.

The motion was put and agreed to.

The clause was added to the Bill.

Clauses 43 to 46.

The question that clauses 43 to 46 do form part of the Bill was put to vote and carried. The clauses were added to the Bill.

Clause 47.

MR. PUTHUPALLI S. KRISHHA PILLAI (*Quilon II*): I move that the whole clause be deleted and the remaining clauses be renumbered.

This clause deals with the class of persons who are qualified to act as the guardian of the person of the lunatic. That is a very important section. Clause 47 reads thus :-

> "The legal heirs of a lunatic shall not be appointed to be the guardian of the person of such lunatic unless the District Court or the Division Peishkar, as the case may be, for reasons to be recorded in writing, considers that such an appointment is for the benefit of the lunatic."

Therefore this disqualifies altogether the legal heirs of a lunatic. The corresponding provision contained in the British Indian Enactment is section 72. There the expression used is "the legal heir of a lunatic." Here the expression used is "the legal heirs of a lunatic". In other words, in the British Indian Enactment, the singular is used whereas here it is the plural.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I question that. In my copy the expression used is the legal heirs.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): In my book I find the singular used. This section happens to be considered in two cases. It is reported in I. L. R, 39 Allahabad, 158 and 15 Allahabad 29. In the 15 Allahabad case, the question arose as to whether the wife of the alleged lunatic could be the guardian of the person of the lunatic.

MR. T. K. VELU PILLAI (*Trivandrum-Urban*): You should know of what community.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): I do not remember the religious persuasion of the parties of that case.

MR. T. K. VELU PILLAI (*Trivandrum-Urban*): A word of explanation, Sir. It is the community that I asked.

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MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): I have not got that information. In the 39 Allahabad case the parties were Mahomedans. They say " This Section is a little odd.....It cannot mean that in the case of a wife she is necessarily an undesirable person to be appointed and indeed we can but endorse the established principle in English Law that a wife has the first claim, and when the section is carefully looked at, it would appear almost tautologous, for no appointment ought to be made which the court does not consider to be to the benefit of the lunatic" Halesburys Laws of England, Vol. X1X, paragraph 824, says that under English law the rule is just the reverse. The more remote a person's relationship the less is his qualification : and the closer his relation to a person the better would be the claim to be the guardian of the lunatic. The wife or husband has the first claim under the English law.

Here, under the system of law existing then, the section, as it stood under the old Lunacy Regulation, did not work much hardship. The several statutes that were enacted there-after, especially those relating to the Nayars, Vellalas and Ezhavas, have brought about vast changes in the law relating to inheritance and succession amongst those communities. Before these Regulations came into force the wife was not the heir of the husband and she would not have been under any disqualification whatsoever for the purpose of appointment as guardian of the person of an alleged lunatic. But the law has since been entirely changed. The only class of persons who would have been affected by this, as the law stood at the time of the old Regulation was in force, was the Muhamedans, amongst whom the wife and many other class of persons were heirs. But in regard to all the others, governed by the Hindu Law, the Marumakkathayam Law or the Christian Succession Act the wife never came in as the legal heir of her husband, so that this provision would not work hardship. Now so far as Nayars, Ezhavas and other classes of persons are concerned, this provision will exclude the wife altogether from the class of persons qualified to be guardian of the person of her lunatic husband. Under the English Law the wife is considered to be the best qualified to be the guardian of the person of her lunatic husband and no laws should be passed which would prevent a wife from becoming so. The section, as it stands, provides a disqualification for the wife altogether and her claims would be considered only in the absence of all others who have absolutely no interest in the lunatic, not only interest in the property but interest in the person also. Even today under the British Indian Lunacy Act, a Hindu- Nayar, Vellala, Ezhava or Christian wife is not within the prohibited or suspected class. Are we not copying section 72 of that Act without realising its full significance without realising that the law of inheritance here is entirely different from the law of inheritance elsewhere. This anomaly, this absurdity, cannot be avoided by an amendment. You will find it more prominently clear when you consider the case of the mother.

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I therefore think that the section may be entirely deleted as being thoroughly unsuited to the conditions of the system of inheritance available in this country. When the question of appointment of a guardian comes up before the court, it is the ordinary rule that the permanent consideration which weighs with the court is the interest of the person for whom the guardian is appointed. It is not the interest of the person appointed as guardian but it is the interest of the person for whom the appointment is made. That is the general principle applied whenever it is called upon to appoint a guardian. And if that is so, Sir, should we prohibit or disqualify some of his relations, so that, only in the absence of all the others who are not the relations of the lunatic, the case of a person who is his heir may be considered? My humble submission is that it would be improper. When the statute says that snch and such persons shall not be appointed, the court has to find out some excuse for appointing one from that class. The claims of the heirs could be considered only after disposing of the claims of all others and even when the heir is chosen, the court has to offer some excuse. In dealing with section 16, the Select Committee discarded the provision in the British Indian Act and accepted the English law on the subject. It is the English law and the Indian law which do not disqualify the wife and the mother that should be followed.

MR. K. KUNJUKRISHNA PILLAI (*Quilon 1*): I beg to second it.

MR. S. J. NAIR (*Nedumangad*): I oppose the amendment, Sir. Out of the provisions of the Bill, clause 47 is the most beneficient, and the amendment proposed gives a suggestion to include legal heir alone as the guardian of a lunatic. But clause 47 reads thus:

> "The legal heirs of a lunatic shall not be appointed to be the guardian of the person of such lunatic unless the District Court or the Division Peishkar, as the case may be, for reasons to be recorded in writing, consider that such an appointment is for the benefit of the lunatic."

If that is the case, certainly the legal heir of the lunatic would become the guardian of the lunatic. There is no difficulty in it and there is no need for the amendment suggested. My friend suggested, as an example of the case, a Nayar lunatic, a rich person, a person who has amassed plenty of wealth, all self-acquired property, becoming insane and consequently becoming a chronic lunatic and himself as having as his wife, say a young handsome healthy wife who is in the bloom of her life. Well, Sir, under the Nayar Regulation, the lady becomes the legal heir of all these self-acquired properties. Under the customs that prevail amongst the Nayars that lady could re-marry after the death of the lunatic. Suppose the lady is appointed as legal guardian of the lunatic, and the lady is tired of her husband who has become a chronic lunatic and that she is desirous or anxious to have a husband who is sane. Then the life of the lunatic would naturally be in danger, of course, not always, Sir, but at times.

PRESIDENT: What you wish to point out is about the riches?

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MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): May I know from the member whether his contention is that the ordinary rule is that wives will not be virtuous ?

MR. S. J. NAIR (*Nedumangad*): So far as legal provisions are concerned, there must be protection for any and every contingency. Clause 47 is a very useful provision which says that, if the Peishkar or the court so desires, they can very well appoint the wife as the guardian. But if that lady is not virtuous and will not well conduct the guardianship, there is provision for not appointing her. So far as this Bill is concerned, clause 47 is, in my view, necessary.

MR. T. K. VELU PILLAI (*Trivandrum—Urban*): I wish to say a few words. Yesterday, Mr. Krishna Pillai, when talking on some other amendments, preferred English Law to the Indian and today he prefers the Indian law to the English law. It is quite legitimate to him to establish his arguments in that manner. I would congratulate my friend in doing so. The discussion, however, proceeds evidently on a misconception. Although I have looked into this section both in the Select Committee and afterwards and, even after listening to the arguments of my friends, I am still of the very definite opinion that this section does not take away the power to appoint a class of relations as guardians. My friend was referring to the Penal Code. I may refer to the Abkari Regulation. We find that the rules empower a small officer to conduct searches in a house after recording reasons. If an officer is entrusted with the task of appointing guardians and vested with a discretion he will certainly think about it very carefully and will go into all the aspects of the question.

Much has been said by my friend Mr. S. J. Nair about the Nair women and Nair men. People of one community may be as good or as bad as the members of another community. But these comparative considerations have very little to do with this matter. It is the glory of civilization and of this country that this large majority of wives are virtuous. Women in one community are as virtuous as those of another.

The argument of Mr. S. Krishna Pillai raises certain other points. It has been pointed out that because the Judges of the Allahabad High Court took a certain view we should be very careful. I am one of those who are of the firm opinion that the wisdom of the legislature is superior to the wisdom of the Judges. The Legislature should take pains to correct the mistakes of the Judges. I place that argument before the House so that in preference to our deliberate opinion the opinion of the Judges should not be taken. I know a case in which it took twenty years to correct their mistakes. I remember the famous case Gujju Lal *Vs.* Fateh Lal in which the Judges created difficulties which they and other eminent Judges took many years to solve. A quietus was ultimately given by the ruling in the Collector of Gorkakpur *Vs* Palakdhari Singh. So in these matters the Judges are not the persons to give the finalword. My friend also stated other reasons. The death penalty in cases of murder has been mentioned. That raises a very

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[Mr. T. K. Velu Pillai.]

important question. In England that question has been raised and people like Sir James Stephen who have written monumental books, have maintained the retention of the extreme penalty in the Statute Book. In a comparatively less important country, Italy, that penalty has been stopped. Many years have lapsed since Beccaria advocated its abolition. The standard is very difficult. All that apart, I am of the view and, I wish to be understood in a right spirit, that this provision does not take away the power of the public authority to appoint a close relation as a guardian. If the officer is satisfied that the close relation is such that there will be no danger in appointing such a person that person may be appointed. The only condition is that reasons should be recorded. When an officer exercises a judicial discretion on that matter he will appoint only suitable persons. An officer is after all endowed with human feelings. The only question then is whether the rights of an individual are infringed. The law presumes that the Government servant will do his duty according to law.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): May I know what is the harm if the full discretion of the appointment is given to the court?

MR. T. K. VELU PILLAI (*Trivandrum—Urban*): The court has got full discretion. It has only to be regulated by law. We are now framing the law.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): May I know whether the law is necessary for the confinement?

MR. T. K. VELU PILLAI (*Trivandrum-Urban*): Yes, otherwise recording reasons will be valueless. This clause makes only an adequate safeguard. Ordinarily a close relation, for various reasons, may take interest in the person of the lunatic. But there may be cases in which the vindictiveness and sordidness of human nature will assert itself and conquer the noble feelings. If all people are virtuous then no legislation is required. My point is that there is nothing wrong in maintaining this clause. The matter was fully discussed in the Select Committee. By that I do not mean that the members who were not in the Select Committee should assent to it and not argue their cases. When the Law Member said that the Select Committee considered it, I think, he only meant that these points were considered there. That is all and nothing more. While appreciating the difficulties of my friend Mr. Krishna Pillai, I may assure him that there is absolutely no inherent danger in retaining the present clause. The Government will appoint only the right sort of people and every thing will be safe. I therefore maintain that this clause may be retained and hope that my friend Mr. Krishna Pillai will take a liberal view of the matter.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur cum Pattanapuram*): Sir, I admit, a great deal of discretion has to be vested in the court in the matter of choosing persons to be appointed as guardians of lunatics and persons of unsound mind. But in this section that discretion is sought to be restricted and restricted in the wrong way.

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If the section had provided that ordinarily a close relation such as is contemplated by the section should be appointed as guardian, and if the Magistrate thinks for good reasons to be stated in writing that any particular heir is unfit to be a guardian he might refuse to appoint him, no exception could have been taken to it. But what does this section say? Ordinarily no legal heir of a lunatic can be appointed as guardian but in exceptional cases he or she may be appointed and when the Magistrate appointed a legal heir as guardian proper reasons should be recorded by him for the appointment. This is reversing the natural order of things. According to the Nayar Regulation, for instance, a mother is a legal heir, the children are legal heirs, and the wife is a legal heir. These are exactly the class of persons from whom one would ordinarily select a guardian for a minor or a lunatic. Therefore if the Peishkar or the court wants to appoint even the mother as the guardian he will have to record proper reasons for so doing. What are the special reasons which a court can state for appointing the mother as guardian? Ordinarily we know why the mother should be preferred, because she is presumed to love her children and care for them more than any other person. There is no reason why the court should be prevented from raising the natural presumption and to invent reasons for appointing a mother as guardian It is preposterous to ask a court in such a case to state that she is a good mother, a loving mother and so forth and therefore I appoint her In the case of a lunatic, the legal heirs are the best persons to be appointed as guardians and no presumption ought to be raised against their fitness for the same.

Of course, there may be exceptional cases where a particular heir may be unfit to be appointed as guardian and in such cases the court must be called upon to record the reasons for its opinion. The best consideration that should weigh with the court in the matter of the appointment of a guardian is the interest of the lunatic and the interest of the lunatic will be served by the appointment of a blood relation rather than a stranger. But if this section is allowed to stand the District Court or the Division Peishkar will always have to appoint, ordinarily, a stranger as the guardian of the lunatic even though he has his mother, wife and children living who are capable of looking after the lunatic because all these come under the term "legal heirs". The interest of the lunatic, instead of being advanced by the section, only suffers by it. I submit, therefore, that unless there are very good reasons showing that such legal heirs, as the mother, wife, and children are unfit to take charge of the person of the lunatic, a guardian should be chosen from among them. Therefore the prohibition against heirs being ordinarily appointed as the guardians must be taken away either by deleting or suitably amending the clause. Even if it is deleted, it does not matter, because then it will give a wide discretion to the court or the Division Peishkar in appointing a guardian of a lunatic. In exercising that discretion, I have no doubt, they will have to take into consideration the circumstances of the country, and the nature of the persons to be appointed,

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[Mr. Changanachery K. Parameswaran Pillai.]

He would ordinarily appoint a relation who may also be a legal heir and, when he does not so appoint, he will give reasons for not so appointing. Therefore there is no harm in deleting this section. If, on the otherhand, the section is to be retained, the presumption should be reversed. The presumption should be that the legal heir is the best guardian. He should ordinarily be appointed as the best person who would take the greatest interest in the lunatic and when the court does not so appoint a legal heir the reasons therefor should be asked to be given. I think, therefore, there is no harm in deleting this section leaving the entire discretion to the court or the Division Peishkar to determine whom they will appoint as the guardian of a lunatic.

PRESIDENT: The House will now adjourn and meet again at 2 P. M.

The Assembly adjourned at 1 P. M. and reassembled at 2 P. M., the Deputy President presiding.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): Sir, after anxious consideration, I find myself unable to refrain from supporting the amendment I take it that the principle of the clause is that a near heir could ordinarily be expected to have a direct or indirect interest in the death of the lunatic. Consequently he should not be appointed as a guardian unless, for special reasons, the court orders otherwise. That, I believe, is the principle embodied in clause 47. We cannot however forget the fact that persons who happen to be the legal heirs under all systems of inheritance have ordinarily the greatest interest or are likely to have the greatest interest in the lunatic himself. Natural love and affection would prompt them to have the greatest interest in the welfare of the lunatic. There is, therefore, a conflict of principles, the principle that the legal heir would have a direct or indirect interest in the death of the lunatic in conflict with the other principle, that on account of natural love and affection, he would have the greatest interest in the welfare of the lunatic. When there is such a conflict of principles, the best thing, in my opinion, is to delete the clause altogether and leave the matter entirely to the discretion of the court. Let the court decide as to who should be the best person. When we, therefore, consider the amendment carefully the principle embodied in this clause must not be there. It is said it would be a good direction to the court and the Division Peishkar. But then more or less it should agree with the principles already explained by me. The legal heirs, as I said, are generally the blood relations, the mother, father, the son or, in some cases, the wife for the husband and *vice versa*. Ordinarily the legal wife or husband or other blood relations will take the greatest interest in the welfare of the lunatic. My submission, therefore, is that there is a conflict of principles and, under the circumstances, the best thing will be to drop the clause altogether. In that view I support the amendment.

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MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I rise to oppose the amendment. As already pointed out by Honourable members, this clause does not prohibit relations being appointed as the guardian of a lunatic. The term 'legal heirs' may, perhaps, be given different interpretations. But the discussion on the motion is not centred round the term 'legal heirs'. 'Legal heirs' may be taken to mean near relations. No doubt, under the principle of English law, there is no heir to a living man, *Nemo est haeres Viventis*. If that view has been pressed and if that technicality has been made against the expression, I would readily have accepted it, perhaps. But, as it is, that is not the amendment. What the amendment wants is to delete the clause altogether and delete the principle embodied in the clause. Viewing from all aspects, the principle embodied is a very important one and I request the House to consider it carefully.

Firstly, let me say that this clause does not *prohibit* near relations being appointed as guardians. All that it says in effect is "when you propose to appoint a relation as a guardian, consider it well."

The discretion is always in the court. The court should see that the guardian is appointed for the benefit of the lunatic, whether guardian be a relative or not. This clause mearly says that, "If you are going to appoint a guardian look at the person specially. Here is a relative to be appointed as guardian. See whether it is for the benefit of the lunatic and then appoint". If the clause is omitted, a relation will be appointed guardian of the person of the lunatic as a matter of course. There may be danger in appointing a relation or in some cases there may not be any danger.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*): In that case will it not create a tendency on the part of the officers to pass over the claims of the relatives?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): No, Sir, I do not think so. It only says "Beware in appointing relatives. Consider whether such appointment is for the benefit of the lunatic. Consider that aspect and determine what is best for the lunatic."

MR. M. SIVATANU PILLAI (*Tovala*): What is the sort of danger that the member anticipates by appointing a relative as guardian?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The lunatic may be let even to die. He may not be looked after. His i terest may not be cared for. When a relative is given the custody of a lunatic person, many things may happen. Some relations may be interested in the death of the lunatic. They may be interested in treating him as a lunatic as long as possible. I know personally instances of such cases. I shall allude to one such instance that has come to my perscnal knowledge if the House will permit me to do so. There was a well-known Anglo-Indian gentleman who was in Travancore, sometime ago, in affluent circumstances. But for some reason or other he and his wife were not pulling on on good terms.

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What the lady did was to take her husband to Madras, and there got somebody to certify that he was a lunatic and clapped him in an asylum. And then the lady tried to be appointed guardian of the property of the alleged lunatic. There was no person to look after the gentleman's interests because the property was in the hands of the wife and the wife was supposed to be the best person to see whether her husband was a lunatic or not But later on, however, when a kind friend of the gentleman happened to know this, he fought out the matter and one of the then lions of the Madras Bar, Mr. Norton, argued the case before the Madras High Court and got the man declared sane. Such cases are, no doubt, very rare but a wife may sometimes be interested in confining her husband. So there may be danger. I am not saying that a relative is a wicked person nor can you say that every relation is a virtuous person. I am only saying " Beware of the relative ".

MR. A. S. DAMODARAN ASAN (*Mavelikara*) : So, according to the Law Member, will there be a change of law in the general guardianship also?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : I am coming to that. The legislators were very wise then and they adopted a very similar provision when the Guardianship Law was passed.

RAO BAHADUR N. RAMANUJA AIYANGAR (*Commissioner of Police*): Is not lunacy a set of stock defence in criminal cases sometimes?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Yes.

When I heard of the arguments in support of the amendment, I was, for the moment, taken aback and thought that I had, perhaps, committed a dastardly crime in this Bill. In the meanwhile, I was looking into the previous allied legislations to see what provision was accepted then. The existing Lunacy Regulation is Regulation 1 of 1080. The provision there is section 14, para (2).—

> " No person being the next legal heir of a lunatic or appearing to have a direct or indirect interest in the death or continued disqualification of such lunatic shall be appointed a guardian of the person of such lunatic, unless the court is satisfied, for reasons to be recorded in writing, that it will be for the welfare of the lunatic to appoint such person as guardian. "

It is only this very same provision that is put here excepting that I have substituted the expression " legal heirs " for the expression " persons.....lunatic ".

MR. A. S. DAMODARAN ASAN (*Mavelikara*) : What I wanted to know from the Law Member is, according to his argument, would not a change be effected in the general law of guardianship.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) No.

DEPUTY PRESIDENT : When there is a special Regulation and when there is a provision in that Regulation it does not affect the general law.

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MR. A. S. DAMODARAN ASAN (*Mavelikara*) : I want to know whether a change in the general law should not also be effected.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : No, Sir because there is already a provision there, exactly as it is in my Bill. The general law of guardianship is the Guardian and Wards Regulation. What is the provision there? The provision is contained in section 13 sub-section (3) which is as follows :

"No person being the next legal heir of a ward or appearing to have a direct or indirect interest in the death or continued disqualification of such ward shall be appointed a guardian of the person of such ward, unless the Court is satisfied, for reasons to be recorded in writing, that it will be for the welfare of the minor to appoint such person as guardian."

PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*) : Will the member read section 16 also?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Section 16 reads :

"Nothing in this Chapter shall authorise the Court to appoint or declare a guardian of the person—

(a) of a minor who is a married female and whose husband is not, in the opinion of the Court, unfit to be guardian of her person, or

(b) of a minor whose father or karanavan is living and is not, in the opinion of the Court, unfit to be guardian of the person of the minor."

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*) : Does it not take in its view the cases of karanavars, father, son and wife as being exempted from those coming within the category contemplated by section 13?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : May be. But the thing, general prohibition, is there. The whole means that the court should consider the aspect of the relationship.

So then this amendment is entirely against the provision that has been accepted in the existing Lunatic Regulation and in the General Law of Guardians and Wards.

PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*) : That section deals with the next legal heir.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : I do understand that. The fight is not now about the word ; we are at the principle. The amendment proposed is to take away the clause altogether and the principle embodied in it. I could very well have appreciated if the amendment was for the terms 'legal heirs' being substituted by the terms in the existing Lunacy Regulation or in the Guardian and Wards Regulation. What I object to is, and what I request the House to consider is, the taking away altogether of the principle embodied in this clause "namely, if a near relation is to be appointed, beware".

The relations are not prohibited from being appointed as guardians. If the amendment is accepted, there will be no provision whatever in the Bill to tell the court "Beware when you appoint relations". Certainly, if the House does not want the court to be asked "Beware," by all means, accept the amendment. But to me it appears that it is a very

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wholesome provision and it does not take away the right of relatives as it does not prohibit relatives from being appointed guardians of lunatics. It only tells the court "Please Beware and then pass orders".

Very often, in 99 cases out of 100, certainly the court will declare only a relative as the guardian. But the court should consider whether the particular relative is the best guardian. It is only that that the section wants. As I said, this is not a novel point. That has been accepted in the existing Lunatic Regulation of 1080 and in the Guardian and Wards Regulation and in the Indian Act. So that, if the question is considered on principle, it seems to be that the principle is one which ought to be accepted. Any other amendment I am certainly prepared to consider. But, I think that the House will be taking a very serious responsibility in throwing out the principle and laying down that no consideration whatsoever should be adverted to when the court thinks of appointing a relative as the guardian. I therefore oppose the amendment.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): May I know whether the member proposes to bring it as an amendment at the third reading of the Bill?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Which amendment?

MR. R SAMBASIVA AIYAR (*Kunnatnad II*): The expression "legal heirs" may be amended as the "next legal heirs".

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): As I said, if the discussion is focussed.....

DEPUTY PRESIDENT: I want to make it clear that in the course of the discussion any such agreement as is contemplated by Mr. Sambasiva Aiyar would not be quite proper. We are concerned with the merits of the question now. The possibility of the amendment in the third reading ordinarily ought not to count with this House now. That is the principle that ought to be followed.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): May I know whether the Law Member would be using the same phraseology as in the Lunacy Regulation?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I don't know. It is for the House to say.

MR. M. SIVATANU PILLAI (*Tovala*): Is it the member's view that no legal heir or heirs would be appointed, if in the opinion of the District Court or the Division Peishkar, for reasons to be recorded in writing, that such appointment would be in the interest of the lunatic?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) I cannot speak on that at present.

MR. M. SIVATANU PILLAI (*Tovala*): I am putting the question only in the reverse way.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I would rather stand by the existing law, as embodied in the Lunacy Regulation, in the Guardian and Wards Regulation and in the Indian Act.

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Mr. P. K. NARAYANA PILLAI (*Ambalapuzha I*): Sir, the objection raised to clause 47 is more sentimental than substantial. That is what appears to me. For, the paramount consideration for the Division Peishkar or the District Court in appointing a guardian for a lunatic is the benefit of the lunatic. That is very clearly provided for. Clause 47 says:

".....unless the District Court or the Division Peishkar.....consider that such an appointment is for the benefit of the lunatic."

So much being assured, the way in which the clause has been drafted, casting a *prima facie* slur upon the legal heirs, is a matter of mere sentiment so far as I can see. It has been pointed out, by learned members who were good enough to express an opinion on this clause, that the English law on the subject is different. Indeed, that being so, it is a conscious change that has been resorted to by the Indian Legislature in enacting the Lunacy Act of 1912. Not only that. That Act was subsequently amended in 1922 and still this provision was not disturbed. When, therefore, one Legislature, acting on the model of some other legislative enactment, proposes a conscious change, naturally there must be some good reason for the change as, for instance, Mr. Krishna Pillai himself, for certain apparent reasons, now wants a conscious change from the British Indian Enactment which has been mainly followed in the present instance. All these long years the provision in the Bill has been standing as law. It was also in the old Lunacy Regulation of Travancore though not in identical terms. Under such circumstances a very strong case will have to be made out before the clause can be turned the other way about.

Certain cases of suspicion by the Legislature have been pointed out by my friend, the Law Member. Indeed, the Legislature does suspect certain persons, in the light of experience and human nature. For example, in the case of statements recorded by the Police during the course of their investigation, although there may be very honest Police officers, the Legislature says, on account of the interest of the Police in the matter, that they cannot be admitted as evidence for consideration by the courts. Similarly, in the Guardian and Wards Act, certain near relations, who have a presumed interest in the minor or in the minors' property, are excluded from guardianship. Again, in the Civil Procedure Code, when there is any adverse interest on the part of the proposed guardian, *ad litem* even if such guardian happens to be the father or the husband of the minor, the court excludes such guardians. Such precautions are taken to ensure fairness in dealings before courts. That is all that is intended by this provision.

Further, it may happen that the near relation is a dependent of the lunatic. For example in clause 49 it is provided:

"(2) When a distinct guardian is appointed, the manager shall pay to the guardian such allowance as may be fixed by the District Court or the Division Peishkar, as the case may be, for the maintenance of the lunatic and such members of his family as are dependent on him for their maintenance."

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[Mr. P. K. Narayana Pillai.]

Similarly, clause 61 provides for the maintenance of the dependants of the lunatic and for the enforcement of such claims for maintenance against the estate of the lunatic. Suppose a person who is to get maintenance from a lunatic is appointed guardian. It may be very awkward for such person to enforce his claims against the lunatic while acting as his guardian. Provision is therefore made for proper distribution of such amounts. These difficulties may also arise. The organisation of the Indian family is such that many possible heirs of a lunatic may be depending upon him for their maintenance. In such cases it may be rather inconvenient for the guardian to carry on effectively the guardianship of the lunatic. Take, for instance, the case of an ordinary Hindu wife. She may not have the wherewithal to carry on the guardianship. She may have to resort to the property of the lunatic. In such cases it may not be to the best interests of the lunatic that the wife, though she happens to be his nearest relation, should be his guardian. Therefore, the Legislature, in its wisdom, has provided that the benefit of the lunatic shall be the paramount consideration in the appointment of any guardian. Of course, there may be rich wives who may be in a position to carry on the guardianship effectively and to command the necessary funds for the upkeep and the treatment of the lunatic. Certainly, in such cases, it is for the benefit of the lunatic to appoint the wife as his guardian.

In view of the ordinary organisation of the Indian family, where so many in the family may be depending upon one member of the family, it is not generally desirable to create a preferential claim in favour of the nearest relations. It is quite safe to give full discretion to the court and to the Division Peishkar. Further, in the present instance, the provision has been in force for so many years and has not been found to work unsatisfactorily in any case. In view of that also, I beg to submit, there need not be so much opposition to the clause as it stands at present.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): I move for a closure.

DEPUTY PRESIDENT: I am sorry I cannot allow that motion now. Mr. Varughese may speak.

MR. N. E. VARUGHESE (*Tiruvalla I*): സർ, എന്റെ മാന്യസ്നേഹിതൻ മി. പുതുപ്പള്ളി കുഞ്ഞപിള്ള ഇവിടെ അവതരിപ്പിച്ചിട്ടുള്ള ഭേദഗതിയെ അനുകൂലിക്കാൻ നിവൃത്തിയില്ലാത്തതിനാൽ ഞാൻ ഖേദിക്കുന്നു. ഭേദഗതിക്കനുകൂലമായിട്ടും പ്രതികൂലമായിട്ടുമുള്ള പല മാന്യന്മാരുടേയും അഭിപ്രായങ്ങൾ ഞാൻ ഇവിടെ കേട്ടുകൊണ്ടിരിക്കയായിരുന്നു. ഞാൻ ഈ ഭേദഗതിയെ പ്രതികൂലിക്കുന്നതു ഭേദഗതിപ്രയോക്താവിന്റെയൊ അല്ലെങ്കിൽ ഇതിനെ അനുകൂലിച്ചു പ്രസംഗിച്ചവരുടേയൊ നേർക്കുള്ള അനാദരവുകൊണ്ടൊ അല്ലെങ്കിൽ അവർ പുറപ്പെടുവിച്ചിട്ടുള്ള വാദങ്ങളുടെ വിലക്കുറവുകൊണ്ടൊ അല്ല. മറിച്ചു ഭേദഗ

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തിയെ എതിർത്തു പുറപ്പെടുവിച്ച അഭിപ്രായങ്ങളും ഞാൻ കേൾക്കയുണ്ടായി. ഇരുഭാഗക്കാരുടേയും വാദങ്ങൾ കേട്ടശേഷമാണു ഞാൻ ഇതിനെ പ്രതിക്രുലിക്കാൻ ഒരുമ്പെട്ടതു്. ഈ അവസരത്തിൽ സാധാരണ മനുഷ്യപ്രകൃതം നന്മയിലേക്കാണൊ തിന്മയിലേക്കാണൊ പോയിക്കൊണ്ടിരിക്കുന്നതെന്നുകൂടി ആലോചിക്കേണ്ടതായിട്ടുണ്ടു്. അങ്ങനെ നോക്കുമ്പോൾ ഈ ഭേദഗതിയുടെ ആവശ്യകതയും അനാവശ്യകതയും തീരുമാനിക്കാവുന്നതാണു്. ലോകത്തു പലജാതിമതസ്ഥന്മാരുമുണ്ടു്. കൂസ്തുമതത്തെപ്പറ്റി പറയുകയാണെങ്കിൽ ലോകത്തിന്റെ ആരംഭകാലം മുതൽക്കുതന്നെ ദൈവകല്പനയെ ലംഘിച്ചുതുടങ്ങിയതായിട്ടാണു കാണുന്നതു.

DEPUTY PRESIDENT: That does not arise.

MR. N. E. VARUGHESE (*Tiruvalla I*): മനുഷ്യസ്വഭാവം എങ്ങനേയാണു എന്നു കാണിക്കുവാൻവേണ്ടി പറയുകയാണു്.

DEPUTY PRESIDENT. You can, certainly, legitimately speak about the Christian Law of Inheritance so far as it has any bearing on the present subject, but the violation of the Command of God by our first ancestors need not come in at all.

MR. N. E. VARUGHESE (*Tiruvalla I*): ഇതിനേപ്പറ്റി ഞാൻ പ്രസ്താവിച്ചതു ആദ്യമനുഷ്യൻ എന്നു ഞങ്ങൾ വിചാരിക്കുന്ന ആളിന്റെ ഗതി തിന്മയിലേക്കായിരുന്നു എന്നു കാണിക്കാൻ വേണ്ടിയാണു്.

DEPUTY PRESIDENT: Mr. Varughese, there need be no discussion about my ruling you may proceed with your next point.

MR. N. E. VARUGHESE (*Tiruvalla I*:) മനുഷ്യർ അനുസരണകേടുള്ളവരായിട്ടു കാണപ്പെടുന്നു. അസൂയകൊണ്ടോ മറ്റൊ ഒരു സഹോദരൻ മറ്റൊരു സഹോദരനെ കൊലചെയ്യുന്നു. ഇങ്ങനെചിന്തിച്ചുനോക്കുമ്പോൾ മനുഷ്യപ്രകൃതം ഏതുകാരണവശാലും ദോഷത്തിലേക്കാണു ചാഞ്ഞുകൊണ്ടിരിക്കുന്നതെന്നുകാണാം. ഇതു തന്നിലടങ്ങിയിരിക്കുന്ന ഏതൊ ഒരു രഹസ്യശക്തിയുടെ പ്രേരണകൊണ്ടാണു. അതിനാൽ സ്വത്തിന്റെ അവകാശിയായിത്തീരാവുന്ന ഒരാളിനെ സ്വബോധമില്ലാത്ത ഒരാളിന്റെ രക്ഷകത്താവായി വയ്ക്കുന്നതു ഒട്ടുംതന്നെ ബുദ്ധിപൂർവമല്ല. സ്വബോധമില്ലാത്ത ആളിനോടു കരുണ കാണിക്കുമെന്നു ഡിവിഷൻപേഷ്കാരു തോന്നുന്ന ഒരാളിനെ രക്ഷകത്താവായി നിയമിക്കാൻ നിയമത്തിൽ യാതൊരു തടസ്സവുമില്ല.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): I move for a closure.

The motion was put to vote and carried.

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MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*) : It is rather a surprise to me that the discussion has drifted off the main point that is before us. I do not want to take up the time of the House by referring to previous legislations on the subject.

The learned Law Member who referred to previous legislations on this point and expressed satisfaction that, after all, there was nothing wrong in this, could very well have borne it in mind when this Bill was drafted. Let us first take the Guardians and Wards Regulation into consideration. Section 13, sub-section (3) reads thus—

> "No person being the next legal heir of a ward or appearing to have a direct or indirect interest in the death or continued disqualification of such ward shall be appointed a guardian of the person of such ward, unless the Court is satisfied for reasons to be recorded in writing, that it will be for the welfare of the minor to appoint such person as guardian."

This must be read subject to sections 4 and 16 of the Regulation. Section 16 says :

> "Nothing in this Chapter shall authorise the Court to appoint or declare a guardian of the person—
>
> (*a*) of a minor who is a married female and whose husband is not, in the opinion of the Court, unfit to be guardian of her person, or
>
> (*b*) of a minor whose father or karanavan is living and is not, in the opinion of the Court, unfit to be guardian of the person of the minor.'

Just consider, Sir, how far this section disqualifies the husband, the karanavan or the father of a minor from acting as guardian. Also please note that the expression used is *next* legal heir. Under the system of inheritance prevailing amongst marumakkathayees the mother, father, son, wife, karanavan or brother, was never the next legal heir and the provision of section 13 did not impose any disqualification upon such relations.

DEPUTY PRESIDENT Have not the conditions of the Nair families undegone considerable change ?

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*) : Yes, it has. That is the very reason why this expression "legal heirs" should not find a place in this Bill. It is abundantly clear from this that the law did not look upon such persons with suspicion to start with. Let us turn to the British Indian Lunacy Act. It refers to "the legal heir." It is the singular that is used. That is significant. Here we have "the legal *heirs*." What is the significance of this change ?

DEPUTY PRESIDENT : Is there not a rule of interpretation that the singular includes the plural in laws ?

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*) : Not always. Here it is stated "legal heirs". It would also be noticed that in the 39 Allahabad case the learned Judges, whether they were good Judges or bad Judges, have their opinion about this expression.

DEPUTY PRESIDENT : The question of Judges being good or bad does not arise.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*) : Sir, I am telling this House about the opinion of two judicial officers on this question.

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Let us now turn to the old Lunacy Regulation, Regulation I of 1080. Section 14, para 2, reads thus:

> "No person being the next legal heir of a lunatic or appearing to have a direct or indirect interest in the death or continued disqualification of such lunatic shall be appointed a guardian of the person, etc."

Let us take the case of marumakkathayees. Was the son at that time the next legal heir of the father? Was the father the next legal heir of the son? Was the wife the legal heir of the husband? The Legislature had, in contemplation, the natural affection which existed between the father and the son, the husband and the wife. The law did not prevent the father from being the guardian of his lunatic son; nor did it prevent the son being the guardian of his father. Same was the case of the husband and wife. Now all these persons are legal heirs. This provision looks upon them with suspicion and therefore disqualifies them. Was this contingency contemplated by the person responsible for the Bill? Was that change introduced consciously?

DEPUTY PRESIDENT: The Law Member is not responsible for this provision in this Bill. The Law Member only shares the responsibility with the other members of the Select Committee.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Sir, I referred the Law Member as the father of this Bill. This is a Government Bill and represents Government and he has got the responsibility to that extent. Why was that expression "next legal heir" omitted? Why was that little word "next" omitted? Is there anything obnoxious in it, or is it because it does not find a place in the British Indian Act? In British India the conditions are entirely different from the conditions prevailing here. Under the Hindu Mithakshara Law the wife is not the heir of the husband, nor the husband the heir of the wife. And then the mother is not a heir. That is the reason, I submit, why the British Indian Act stuck on to the expression "legal heir." In the English law the wife or husband shall be the first claimant for each other's guardianship. Without considering the exact and correct import of these expressions it is not proper to say that the provisions contained in the old Lunacy Regulation and the British Indian Act are as bad as ours.

DEPUTY PRESIDENT: I think it is my duty to point out that the expressions in the nature used by the member are not in proper form. It is one thing that a set of words may be used by Mr. Krishna Pillai to express an opinion different from that of the Law Member or of any other member of the House or of the Select Committee. But it is not in keeping with Parliamentary dignity to suggest that anybody who was responsible for the measure did not understand or care to understand the implication of the expression he used in the provision. It is perfectly open to Mr. Krishna Pillai to say that the words are capable of being interpreted in different ways. Please accept that suggestion.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Sir, I am speaking only what I feel on the subject.

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DEPUTY PRESIDENT: What the member expresses must be in conformity with Parliamentary practice.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Whatever there may be unparliamentary...

DEPUTY PRESIDENT: No, that is gone. You please proceed with your argument.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): I have forgotten the trend of my argument, Sir.

DEPUTY PRESIDENT: I am sorry.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Sir, in the hope that I shall confine myself to the expression of ideas, I seek permission to continue my speech.

DEPUTY PRESIDENT: You have got a right to speak. You do not want a special permission. Mr. Krishna Pillai, please proceed.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Sir, a careful reading of the provisions contained in the Guardians and Wards Regulation, the Lunacy Regulation of 1080 and the British Indian Lunacy Act and a grasp of the full implications thereof will convince the House that all those who opposed my amendment are in the wrong.

DEPUTY PRESIDENT: It is perfectly Parliamentary. Only each man sees his own wisdom near and the wisdom of others at a distance.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): I am glad that I am in good company. Therefore no member shall rely on these 3 legislative enactments for the purposes of convincing any one that there is nothing wrong in that. My impression is this that this possible difficulty was not contemplated before or if it was contemplated it must be taken that those who are in charge of the Bill and those who are responsible for this report have got the greatest mistrust in all these legal heirs for whom I am fighting. To begin with, Sir, every father is expected to love his children, and every child is expected to have profound respect and affection for his father. There is no one like the mother who loves her children and any person who is opposing this amendment is sinning against the institution of motherhood.

MR. S. J. NAIR (*Nedumangad*): May I know from the member what would be the fate of a lunatic entrusted with his old and infirm mother as the legal guardian of the lunatic?

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Sir, that is a point on which there is some misunderstanding. As was stated very clearly by some of the members here, the matter is left to the discretion of the court and under no law now in force will a person be appointed who is unwilling to accept the position. No guardian will be appointed under any system of law who is either unwilling or unable. We are not speaking about crippled mothers. I do not say crippled mothers ought to be appointed. I am speaking of sturdy mothers.

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MR. S. J. NAIR (*Nedumangad*) ; May I know under the circumstances, is it not better that the discretion of appointing the legal guardian is vested in the District Court as well as the Division Peishkar ?

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*) : That is exactly my point. But why should you call upon the court to say that a mother is a good mother. that she is a loving mother, before she is appointed guardian ? Why should you insist upon the wife getting a certificate that she is an unobjectionable person. It was, Sir, stated by one of the members that it was more a matter of sentiment than a matter of reason. That is not correct. It is a legal disqualification that is imposed and a remedy is suggested for removing that disqualification under limited conditions. That is not a sentiment, but a negation of a legal right. You should not disqualify a person and compel him to put himself to the painful necessity of drawing the court's attention to all his virtues in order to convince that he might be a very affectionate and proper guardian. Now coming to the other class of heirs, Sir, one Honourable member said, what about a Nair wife ? I was, at first, startled by the announcements made by the Honourable member but afterwards on calmer consideration, I thought there was nothing strange. The Nayar Regulation Amendment Bill is sufficient justification.

DEPUTY PRESIDENT : The Nair Regulation Amendment Bill is not a matter for discussion now before the House.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*) : It is only a reference, Sir.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Sir, is it not a personal reflection to say at present that Mr. S. J. Nair is the author of the Nair Regulation Amendment Bill ?

DEPUTY PRESIDENT : That is why I did not allow Mr. Krishna Pillai to proceed.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*) : Any wife has got a right to look after her husband and no one has got a right to start with a presumption against any person in the world.

DEPUTY PRESIDENT : There is no such presumption. So that any effort on the part of Mr. Krishna Pillai in answering that point may be dropped.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*) : We are not presuming that there is something wrong on the part of some members. Have we not come across cases of misunderstandings between husband and wife ? But to legislate upon the impropriety of appointing the husband or the wife as the guardian of the other—

DEPUTY PRESIDENT : Unless you know it as a matter of fact, you shall not come under that.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*) : All that I wanted to say was that in all civilised countries there is no such legal mistrust.

DEPUTY PRESIDENT : I think that point has been sufficiently argued.

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MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): One of the last objections that was raised against my amendment was this. If some other amendment was brought it could have been considered. I brougt this amendment just to bring to the notice of this House of the grave injustice involved in it. Any suitable amendment might be made or brought forward by any member if he is convinced of the justice of the principle that I have attempted to explain. In the absence of any such suitable amendment, I submit, my amendment may be accepted by the House.

DEPUTY PRESIDENT: Let us go on with the measure in hand.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): That is all that I submit for the time being. What I submitted was, Sir, in the absence of any better amendment this might be accepted. If this House is really convinced that the section requires an amendment and if any member brings forward an amendment now, my submission is that it may be considered. I do not say that the amendment is perfect but in the absence of anything better, I submit, this may be accepted.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Perhaps it might be permissible for me to say, and after the arguments, that the House would keep the issue clear before them. The question is not one of amending or improving the language of the present clause or one of creating any exceptions to the present clause. The clause embodies a principle. That principle has already been dealt with here. I shall now deal with it again. The amendment wants that a principle should be created altogether. The question is which is just; to retain the principle or to omit it. It was pointed out to retain the principle, as it is, in justice. We ask the House to consider whether it would be justice: just to retain the principle or take away the principle altogether. That is the only issue that is now before the House. There is no question of amending the language, nor is there any question of exceptions being created in favour of the father or karanavan or husband. For that, again, there is no proposal before the House. But the point has been developed and a great deal of argument was pinned on mothers and I see from Guardian and Wards Regulation. no exception in favour of the mother too. It may be seen that, in the case of minors when exceptions would be created in the married minor, the husband is the guardian, in the case of the minor child, the father is the guardian; so that it can be very well seen in the case of minor married female and minor child, the husband or the father is the guardian and the first person to be considered guardian or manager. There is no such thing, Sir, that is being brought up in the case of lunatics as well as persons who are put in the custody of strangers and whether in such a case the exception would be just or not. I heard only that of an exception to the third

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amendment at my disposal. It seems to me to be the same difference between a minor and a lunatic in favour of respective parties. The only question for consideration is whether we should accept the principle or throw it off. It is not the question of improving the language or creating several principles.

The amendment was put to vote and lost.

Clause 47 was put to the House and passed and the clause was added to the Bill.

Clauses 48 to 50.

Clauses 48, 49 and 50 were put to vote and passed and added to the Bill.

Clause 51.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*) : Sir, Mr. P. K. Narayana Pillai has sent up an amendment to section 51 proposing an additional sub-clause. But no copy of the amendment is placed before me.

DEPUTY PRESIDENT : There are two sub-clauses now. Mr. P. K. Narayana Pillai wanted to make an amendment having a third sub-clause. Notice of that has come to me and copy of the amendment has been given in time in order to enable me to consider the question whether permission may be given to move the amendment. I give permission to move the same.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : A copy of it was placed on the table so that it may be passed on from member to member.

DEPUTY PRESIDENT : It has not been brought to my notice that copies are not available.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): I stated definitely that no copy has been placed before me ; or anywhere on the table.

DEPUTY PRERIDENT : Did you rise and say that ?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*) : Yes.

DEPUTY PRESIDENT : Members would be obliging the Chair if they do so at times in which the Chair is not engaged in other work. I am sorry ; anyhow permission has been given and the Law Member says that copies have been circulated. The discussion may proceed.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Sir, if Mr. Kunjukrishna Pillai wants a copy —

DEPUTY PRESIDENT : I think it may be right for the expedition of business.....

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*) : Sir, I cannot quite follow without a copy of this amendment.

DEPUTY PRESIDENT : The Chair has given permission to Mr. P.K. Narayana Pillai. It did so before being informed that members have not been given a copy. Mr. Kuhjukrishna Pillai says that he did get up and mentioned that point. I say I did not hear it, nor did I see Mr. Kunjukrishna Pillai rising up. The only point is that permission having been given, despatch of business requires that I should read it before the House. It runs thus :—

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[Deputy President.]

"Where more guardians or managers than one are appointed under the preceding provisions, and any of them dies while the order of appointment remains in force, such death shall not affect the authority of a surviving guardian or manager as the case may be."

To enable the gentleman to take down the full text of the amendment in long hand, I shall read the same once more :

"Where more guardians or managers than one are appointed under the preceding provisions, and any of them dies while the order of appointment remains in force, such death shall not affect the authority of a surviving guardian or manager as the case may be."

Once more, to remove all defects, I shall read the amendment for the third time :

"Where more guardians or managers than one are appointed under the preceding provisions, and any of them dies while the order of appointment remains in force, such death shall not affect the authority of a surving guardian or manager as the case may be."

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*) : Sir, I am extremely thankful to the Chair for having read out my amendment.

DEPUTY PRESIDENT : Please don't thank the Chair for that.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*) : I may submit my reasons to the House for accepting this amendment. Having come across a recent decision of the Calcutta High Court in the All India Reporter for 1935, Calcutta, page 33, where the learned Judges of the Calcutta High Court had to consider the case of two joint guardians or managers, one of whom died leaving the other, I thought a similar difficulty may arise here also. A question arose whether the surviving guardian had authority to carry on the management of the estate of the lunatic. The learned Judges held, following the English principles that on the death of one of the joint managers the other manager became *functus officio*. They however point out that it is desirable to provide that on the death of one of the joint managers or guardians, the survivor's powers would not be affected. Any such provision would therefore be welcome. I think that such a thing may arise under this Bill in view of the judicial criticisms on the provisions of the Lunacy Act elsewhere.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*) : Is the appointment of more guardians or managers denied ?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*) : It is not denied in this Bill. In this Bill there is nothing to prevent two persons to act as managers or guardians, if so appointed In such a contingency if one of the managers or joint guardians dies, the other would cease to have any power and an interregnum would arise, till another appointment is made by the court or the Dewan Peishkar as the case may be. Meanwhile the estate would not be represented by any one. This is a small amendment and may be accepted by the House.

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MR. POTTAYIL S. KRISHNA PANICKAR (*Shertala II*): What if one of the managers became insolvent? There is no provision for removing such a contingency.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): The court or the Division Peishkar may remove such guardian or manager in such a contingency. I think such a provision is enacted in this measure. With these arguments I move that this amendment be accepted by the House.

MR. N. E. VARUGHESE (*Tiruvalla I*): എല്ലാസന്ദർഭങ്ങളിലും ഒന്നിലധികം ഗാർഡ്യൻസ് വേണമെന്നു പറയുന്നതിന് ഇതൊരു കാരണമായിരുക്കയില്ലേ?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): ഇല്ല. കോടതിയ്ക്കാവശ്യമുണ്ടെങ്കിൽ ചെയ്യാമെന്നേയൊള്ളൂ.

In any case it is so appointed that such a contingency may be met. I move that the following amendment may be accepted by the Houses.

"Where more guardians or managers than one are appointed under the preceding provisions, and any of them dies while the order of appointment remains in force, such death shall not affect the authority of a surviving guardian or manager as the case may be."

MR. S. J. NAIR (*Nedumangad*): I second it.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I am inclined to accept the amendment. Of course I may tell the House that I have to examine this very carefully and if I find on examination that it requires any amendment and any consequential amendments I may move them at the third reading.

DEPUTY PRESIDENT: The question is whether you accept this amendment now.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): At present I accept it. It is best I tell the House what I have in mind to facilitate discussion at a later stage.

DEPUTY PRESIDENT: The question is whether, to clause 51, the additional amendment of Mr. P. K. Narayana Pillai is agreed to by the House.

(A) VOICE—YES.

The question that clause 51 do stand part of the Bill was put to vote and carried. The clause was added to the Bill.

Clause 52.

The question that clause 52 do stand part of the Bill was then put to vote and carried. The clause was added to the Bill.

Clause 53.

The question that clause 53 do stand part of the Bill was then put to vote and carried. The clause was added to the Bill.

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Clause 54.

The question that clause 54 do stand part of the Bill was then put to vote and carried. The clause was added to the Bill.

Clause 55.

The question that clause 55 do stand part of the Bill was then put to vote and carried. The clause was added to the Bill.

Clause 56.

The question that clause 56 do stand part of the Bill was then put to vote and carried. The clause was added to the Bill.

Clause 57.

The question that clause 57 do stand part of the Bill was then put to vote and carried. The clause was added to the Bill.

Clause 58.

The question that clause 58 do stand part of the Bill was then put to vote and carried. The clause was added to the Bill.

Clause 59.

The question that clause 59 do stand part of the Bill was then put to vote and carried. The clause was added to the Bill.

Clause 60.

The question that clause 60 do stand part of the Bill was then put to vote and carried. The clause was added to the Bill.

Clause 61.

The question that clause 61 do stand part of the Bill was then put to vote and carried. The clause was added to the Bill.

Clause 62.

The question that clause 62 do stand part of the Bill was then put to vote and carried. The clause was added to the Bill.

Clause 63.

The question that clause 63 do stand part of the Bill was then put to vote and carried. The clause was added to the Bill.

Clause 64.

The question that clause 64 do stand part of the Bill was then put to vote and carried. The clause was added to the Bill.

Clause 65.

The question that clause 65 do stand part of the Bill was then put to vote add carried. The clause was added to the Bill.

Clause 66.

The question that clause 66 do stand part of the Bill was then put to vote and carried. The clause was added to the Bill.

Clause 67.

The question that clause 67 do stand part of the Bill was then put to vote and carried. The clause was added to the Bill.

Clause 68.

The question that clause 68 do stand part of the Bill was then put to vote and carried. The clause was added to the Bill.

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Clause 69.

The question that clause 69 do stand part of the Bill was then put to vote and carried. The clause was added to the Bill.

Clause 70.

The question that clause 70 do stand part of the Bill was then put to vote and carried. The clause was added to the Bill.

Clause 71.

The question that clause 71 do stand part of the Bill was then put to vote and carried. The clause was added to the Bill.

Clause 72.

The question that clause 72 do stand part of the Bill was then put to vote and carried. The clause was added to the Bill.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): There is one amendment to the schedule forms.

DEPUTY PRESIDENT There is an amendment of Mr. Krishna Pillai to the schedule form. Does the member move it?

MR. PUTHUPALLI S.KRISHNA PILLAI (*Quilon II*): I do not move it.

Schedule Form 1.

The question that Schedule Form 1 do form part of the Bill was put to vote and carried. The schedule was added to the Bill.

Schedule Form 2.

The question that Schedule Form 2 do form part of the Bill was put to vote and carried The schedule was added to the Bill.

Schedule Form 3.

The question that Schedule Form 3 do form part of the Bill was put to vote and carried. The schedule was added to the Bill.

Schedule Form 4.

The question that Schedule Form 4 do form part of the Bill was put to vote and carried. The schedule was added to the Bill.

Schedule Form 5.

DEPUTY PRESIDENT: The question is whether Form 5 stand part of the Bill.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I am against that. That Form is no more appropriate in this Bill because we have omitted the provision relating to asylums not established by Government.

DEPUTY PRESIDENT: The question is whether the House agrees to the Law Member's proposition:

The proposal was accepted and Form 5 was omitted.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): I request permission to move my amendment to the Schedule Form 5.

DEPUTY PRESIDENT: I asked the general wish of the House. They agreed to it. I also asked the member whether he proposes to move his amendment. He returned a negative answer. The House agreed to the proposition to omit Form 5.

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MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): I think I have a right——

DEPUTY PRESIDENT: After the Form itself was voted upon, do you want the matter to be reconsidered?

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): No one has a right to withdraw any part of the statute that is put into our hands.

DEPUTY PRESIDENT: It is not a statute. Mr. Kayalam Parameswaran Pillai told me that there is an amendment to Schedule Form 5. I ascertained the wish of the member and the member told me that he is not moving it. Then I ascertained the wish of the House on a motion made by the Law Member to omit Form 5. The House also agreed to it. Matters which have been discussed and voted upon cannot be allowed to be reopened.

MR. K. R. ELENKATH (*Kalkulam I*): Was the question put?

DEPUTY PRESIDENT: Yes, I put the question and everybody agreed to that.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*). I brought this fact to the notice of the Chair before it was voted upon and——

DEPUTY PRESIDENT: The Chair is not prepared to express an opinion whether a particular amendment is good or bad or the chances of its success in the House. The Chair is not concerned with the success or failure of any amendment. But this I may declare once more that I asked Mr. Krishna Pillai, in order to ascertain his wish, whether he is moving the amendment. Mr. Krishna Pillai said that he did not want to. When Mr. Kayalam Paramesvaran Pillai said that he did not want Form 5, I put it to the House to ascertain its wish, as the Chair has to do under law and practice, whether Mr. Kayalam Paramesvaran Pillai's motion may be allowed. The question was put and the House assented and Mr. Krishna Pillai did not say anything to the contrary. I find he acquiesced. Now it is too late to move an amendment after the House has expressed a clear unambiguous decision.

MR. K R. ELENKATH (*Kalkulam I*): A point of order, Sir. May I know whether a provision made by the Select Committee, in which the Law Member was a party, can be withdrawn by the Law Member?

DEPUTY PRESIDENT: I must tell the member, the Law Member did not withdraw the Form without the permission of the House. The Law Member made a proposal and the House assented and that makes all the difference. So that the point of order does not arise.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): May I be permitted to make a personal explanation?

DEPUTY PRESIDENT: If it is with regard to this amendment, I am not prepared to allow that.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): That is what I want.

DEPUTY PRESIDENT: That does not arise.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): But you must record my personal explanation?

DEPUTY PRESIDENT: Order, order.

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If any amendment or any measure is being discussed, a member is perfectly entitled to make a personal explanation. But after the amendment is disposed of and voted by the House, no member has a right to make a personal explanation relating to that

Form 6.

The question that Form 6 do stand part of the Bill was put to vote and carried. It was added to the Bill.

Clause 2 sub-clause (8.)

DEPUTY PRESIDENT : We will resume discussion of clause 2, sub-clause (8.)

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Yesterday when we were dealing with clause 2, sub-clause (8); I submitted to the House that I shall bring forward an amendment for consideration of the House. Copies of the amendment have been placed on the table and I believe all the members have seen it. The amendment reads as follows: To add after 'Universities', in line 2 of sub-clause (8) of clause 2, "recognised by Our Government for the purpose of this Regulation". The clause when read with this amendment is as follows :

> "Medical practitioner" means a holder of the degree of doctor, bachelor or licentiate of medicine and surgery of any of the British or Indian Universities recognised by Our Government for the purposes of this Regulation or any person declared by general or special order of Our Government to be a medical practitioner for the purposes of this Regulation."

I considered the matter very carefully having regard to the criticisms offered yesterday and I think that the most practical solution of the difficulties will be to insert this provision viz., "recognised by Our Government for the purposes of this Regulation". Any other provision would seem to me, at any rate, to lead to practical difficulties and may not perhaps receive approval. However, I am placing this amendment for the consideration of the House.

MR. R. M. STATHAM (*Director of Public Instruction*) : I second it.

MR. K. R. ELENKATH (*Kalkulam I*) : May I know whether there are Universities not recognised by Government ?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*). This provision requires the express recognition of Government in all cases.

DEPUTY PRESIDENT : The question is that, after the expression "Universities" the words "recognised by Our Government for the purposes of this Regulation" be added.

The question was put and agreed to.

The question that clause 2 do form part of the Bill was put and carried.

Clause 2 was added to the Bill.

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Preamble.

DEPUTY PRESIDENT: The question is whether the Preamble form part of the Bill.

The question was put and agreed to.

The Preamble was added to the Bill.

Title.

DEPUTY PRESIDENT: The question is whether the Title form part of the Bill.

The question was put and agreed to.

The Title was added to the Bill.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): Should not the year of commencement be specified, Sir?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That can be done at the third reading Now, the second reading of the Bill is over. I presume that it is the general desire of the House that I should examine the various provisions again and I believe it is their desire that I should put off the third readingto a future date. But if the House so desires I have no objection to move the third reading also now. I am in the hands of the House. I can move for the third reading only if the Chair gives permission.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): I think it is better to allow the third reading now and only under exceptional circumstances to postpone the third reading of the Bill.

DEPUTY PRESIDENT: I do not propose to allow Mr. Kayalam Paramesvaran Pillai to move the third reading now,

THE TRAVANCORE CIVIL COURTS' POWERS AMENDMENT BILL.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The next item in the agenda is the Travancore Civil Courts Powers Amendment Bill. I beg to present the Report of the Select Committee on the Travancore Civil Courts' Powers Amendment Bill.

DEPUTY PRESIDENT: We will now pass on to the next item in the agenda.

THE TRAVANCORE LIFE ASSURANCE COMPANIES BILL.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The next item in the agenda is the Travancore Life Assurance Companies Bill. Sir, a Committee has already been appointed to consider this Bill and the Committee has also partly considered it. But we have had no member to represent the Government Life Assurance business in the Committee. Mr. R. Nilacanta Pillai is in charge of that. So, I beg to move that Mr. R. Nilacanta Pillai be added to the Select Committee appointed to consider the Travancore Life Assurance Companies Bill.

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